

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KAI CHANG,

Petitioner,

v.

SHARON SMITH NEVINS,
Executive Director,

Respondent.

No. C 06-7687 WHA (PR)

**DENIAL OF CERTIFICATE OF
APPEALABILITY**

This is a habeas case filed pro se by a state prisoner. The petition was denied on the merits in an order entered on April 3, 2009. Judgment was entered that day. Petitioner has filed a notice of appeal and a request for a certificate of appealability ("COA").


A petitioner may not appeal a final order in a federal habeas corpus proceeding without first obtaining a certificate of appealability (formerly known as a certificate of probable cause to appeal). *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A judge shall grant a certificate of appealability "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The certificate must indicate which issues satisfy this standard. *See id.* § 2253(c)(3). "Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: the petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 120 S.Ct. 1595, 1604 (2000).

1 This was not a close case. For the reasons set out in the ruling, jurists of reason would
2 not find that ruling debatable or wrong. The request for a certificate of appealability (document
3 number 23 on the docket) is **DENIED**.

4 The clerk shall transmit the file, including a copy of this order, to the Court of Appeals.
5 See Fed. R.App.P. 22(b); *United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997).
6 Petitioner may then ask the Court of Appeals to issue the certificate, see R.App.P. 22(b)(1), or if
7 he does not, the notice of appeal will be construed as such a request, see R.App.P. 22(b)(2).

8 **IT IS SO ORDERED.**

9 Dated: April 20, 2008.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE